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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/850,383	05/07/2001	Brenda Lynn Dietrich	YOR920010417US1	2717

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW DEPT.
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EXAMINER

CHENCINSKI, SIEGFRIED E

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/850,383

Applicant(s)

DIETRICH, BRENDA LYNN

Examiner

Siegfried E. Chencinski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. **Claims 1-13 are rejected** because the claimed invention is directed to non-statutory subject matter because the claim limitations do not require use of the technological arts. The limitations of the claims fail to require the use of a technological art, such as computer automation, for its operation. Claim 13 is software embodied in a medium which does not require the execution of the functions it is intended to perform.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1, 2, 6, 7, 11, 12 and 13 are rejected** under 35 U.S.C. 102(b) as being anticipated by Ausubel (US Patent 5,905,975).

Re. Claims 1, Ausubel anticipates a method comprising the steps of:

- (1) establishing an auction system (Abstract, ll. 1-2; Col. 1, ll. 61-65); and
- (2) enabling the auction system so that it is responsive to constraints specified by or on behalf of a participant in the auction (Col. 29, ll. 4-14).

Re. Claim 2, Ausubel anticipates a method which comprises establishing an auction system selected from the group consisting of an open cry auction, an ascending bid auction, and a descending bid auction (Col. 1, ll. 21-22, 61-65).

Re. Claim 6, Ausubel anticipates a method wherein step 2 comprises enabling the auction system so that it is responsive to constraints selected from the group consisting of a maximum quantity constraint, a minimum quantity constraint, a

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precedence constraint, and a general linear constraint (Col. 2, ll. 39-40; Col. 6, ll. 56-58).

Re. Claim 7, Ausubel anticipates a method wherein step 2 comprises enabling the auction system so that it is responsive to seller constraints (Ausubel's method has inherent seller constraints without which the auction could not function. These constraints are established in the auctioneer's intelligent system for providing auction information to bidders, and then for evaluating bids – Abstract.).

Re. Claim 11, Ausubel anticipates a method of determining winners from among the participants in the auction (Col. 2, ll. 64-65).

Re. Claim 12, Ausubel anticipates a method of applying an integer program for determining said winners (Col. 10, l. 39 – Col. 41, l. 35).

Re. Claim 13, Ausubel anticipates a program medium executable in a computer system for facilitating an auction (Col. 6, ll. 15-49), the program medium comprising steps for: (1) establishing an auction system (Abstract, ll. 1-2; Col. 1, ll. 61-65); and (2) enabling the auction system so that it is responsive to constraints specified by or on behalf of a participant in the auction (Col. 29, ll. 4-14).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ausubel as applied to claim 1 above, and further in view of McAfee et al. (US Patent 6,718,312 B1, hereafter McAfee).

Re. Claim 3, Ausubel does not explicitly disclose a method enabling the auction system so that it is responsive to constraints that characterize combinations of items within the auction system. However, McAfee discloses a method enabling the auction system so

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that it is responsive to constraints that characterize combinations of items within the auction system (Abstract, l. 8; Col. 1, l. 9; Col. 5, ll. 19-20; Col. 9, ll. 66-67). It would have been obvious to an ordinary practitioner at the time of Applicant's invention to have combined the art of Ausubel with that of McAfee in order to responsive to constraints that characterize combinations of items motivated by the desire to offer combinatorial auction methods and systems that eliminate associated bidding problems (McAfee, Col. 9, ll. 59-63).

Re. Claim 4, Ausubel does not explicitly disclose a method which comprises enabling the auction system so that it is responsive to a budget constraint. However, McAfee discloses a method which comprises enabling the auction system so that it is responsive to a budget constraint (Col. 6, ll. 1-3, 58-62. McAfee's method teaches a method responsive to a budget constraint). It would have been obvious to an ordinary practitioner at the time of Applicant's invention to have combined the art of Ausubel with that of McAfee to be responsive to budget constraints, motivated by the desire to offer combinatorial auction methods and systems that eliminate associated bidding problems (McAfee, Col. 9, ll. 59-63).

Re. Claim 5, Ausubel does not explicitly disclose enabling the auction system so that it is responsive to a budget constraint specified by or on behalf of a bidder. However, McAfee discloses a method which is responsive to a budget constraint specified by or on behalf of a bidder (Col. 6, ll. 1-3, 58-62. McAfee's method teaches a method responsive to a budget constraint). It would have been obvious to an ordinary practitioner at the time of Applicant's invention to have combined the art of Ausubel with that of McAfee to be responsive to budget constraints specified by or on behalf of a bidder, motivated by the desire to offer combinatorial auction methods and systems that eliminate associated bidding problems (McAfee, Col. 9, ll. 59-63).

4. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ausubel in view of Macready et al. (US PreGrant Publication 2002/0016759, hereafter Macready).

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Re. Claim 8, Ausubel does not explicitly disclose a method of enabling the auction system so that seller constraints specify a minimum value for a combination of items. However, Macready discloses a method of enabling the auction system so that seller constraints specify a wide range of parameter possibilities (Page 6, [0077]; [0108]-II. 1-2; [0110]).). It would have been obvious to an ordinary practitioner at the time of Applicant's invention to have combined the art of Ausubel with that of Macready to be responsive to seller constraints such as a minimum value for a combination of items, motivated by the desire to offer flexibility to all trading partners to locate win-win opportunities for all parties if they exist (Macready, page 2, [0012]-II. 7-9).

Re. Claim 9, Ausubel does not explicitly disclose a method of enabling the auction system so that seller constraints specify a minimum value for a combination of a minimum number of items to be sold. However, Macready discloses a method of enabling the auction system so that seller constraints specify a wide range of parameter possibilities. It would have been obvious to an ordinary practitioner at the time of Applicant's invention to have combined the art of Ausubel with that of Macready to be responsive to seller constraints such as a minimum value for a combination of a minimum number of items to be sold, motivated by the desire to offer flexibility to all trading partners to locate win-win opportunities for all parties if they exist (Macready, page 2, [0012]-II. 7-9).

Re. Claim 10, Ausubel does not explicitly disclose a method of enabling the auction system so that seller constraints specify a minimum value for a combination of items correlated to a precedence relationship. However, Macready discloses a method of enabling the auction system so that seller constraints specify a wide range of parameter possibilities. It would have been obvious to an ordinary practitioner at the time of Applicant's invention to have combined the art of Ausubel with that of Macready to be responsive to seller constraints such as a minimum value for a combination of items correlated to a precedence relationship, motivated by the desire to offer flexibility to all trading partners to locate win-win opportunities for all parties if they exist (Macready, page 2, [0012]-II. 7-9).

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Conclusion

5. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Siegfried Chencinski whose telephone number is (571)272-6792. The Examiner can normally be reached Monday through Friday, 9am to 6pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Hyung S. Sough, can be reached on (571) 272-6799.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks, Washington D.C. 20231

or faxed to:


(703)872-9306 [Official communications; including After Final communications labeled "Box AF"]

(571) 273-6792 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to the address found on the above USPTO web site in Alexandria, VA.

SEC

April 20, 2005


HYUNG SOUGH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600